

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DAVID EVERSON and PATRICIA EVERSON,

Plaintiffs,

v.

Case No. 12-C-0857

CITY OF WEYAUWEGA,

Defendant.

ORDER FOR PARTIAL DISMISSAL

Plaintiffs David and Patricia Everson filed three notices of voluntary dismissal seeking to dismiss Counts X, XIII, XIV, XV, and XVII without prejudice. (Dkt. 38, 39, 46.) Where a plaintiff voluntarily seeks to dismiss an action after an answer has been filed, the dismissal is on court order on terms that the court considers proper. Fed. R. Civ. P. 41(a)(2). A plaintiff seeking a “voluntary” dismissal is not required to accept whatever conditions the court may impose. *Mother and Father v. Cassidy*, 338 F.3d 704, 708 (7th Cir. 2003). In this case, the court has determined that voluntary dismissal at this late date would be allowed only with prejudice. On September 11, 2013, the court gave Plaintiffs notice of its intent to grant their motions for voluntary dismissal but stated that the dismissal would be with prejudice. Plaintiffs were given 14 days to advise the court whether they intended to withdraw their motions for voluntary dismissal or accept the dismissal with prejudice. (Dkt. 47.) Plaintiffs have failed to withdraw their motions within the time allowed. Accordingly, their motions are granted, and Counts X, XIII, XIV, XV, and XVII are dismissed with prejudice.

SO ORDERED this 3rd day of October, 2013.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court